

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TARENCE KIRKLAND,

Petitioner,

-against-

UNITED STATES,

Respondent.

24-CV-4434 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated December 2, 2024, the Court denied Petitioner Tarence Kirkland's petition, brought under 28 U.S.C. § 2254, because he sought to challenge his September 1, 2017 judgment of conviction for which he already served his entire sentence.<sup>1</sup> The Court also directed Petitioner, should he want to pursue this action, to show by written declaration that, at the time he filed this *habeas corpus* proceeding, he still was in custody pursuant to this judgment of conviction. Petitioner filed several submissions, but they do not indicate that he was in custody at the time he initiated this proceeding. Indeed, Petitioner attaches to one of his submissions a September 19, 2022 letter from the New York State Department of Corrections and Community Supervision, indicating that Petitioner "no longer owes any time to and is no longer under the jurisdiction of the New York State Department of Corrections and Community Supervision." (ECF 19, at 6.)

Accordingly, as Petitioner is no longer in custody pursuant to the September 1, 2017 judgment of conviction, the Court dismisses this action. The Clerk of Court is directed to terminate the motions docketed ECF 17, 21, and 22.

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<sup>1</sup> Petitioner initiated this proceeding by filing a motion under 28 U.S.C. § 2255, but the Court construed the submission as brought under Section 2254 because Petitioner seeks to challenge a state court conviction.

Because the petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court directs the Clerk of Court to enter judgment in this action.

SO ORDERED.

Dated: January 28, 2025  
New York, New York

/s/ Laura Taylor Swain

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LAURA TAYLOR SWAIN  
Chief United States District Judge